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Supreme Court, U.S.
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No. 05-1309

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2005

STATE OF ALABAMA, Petitioner,

v.

RENALDO ADAMS, Respondent.

RESPONDENT'S OPPOSITION TO THE PETITION FOR A WRIT OF CERTIORARI TO THE ALABAMA SUPREME COURT

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May 15, 2006

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No. 05-1309

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2005

STATE OF ALABAMA, Petitioner,

v.

RENALDO ADAMS, Respondent.

RESPONDENT'S OPPOSITION TO THE PETITION FOR A WRIT OF CERTIORARI TO THE ALABAMA SUPREME COURT

Respondent Renaldo Adams was convicted of capital murder and sentenced to death for a crime he was alleged to have committed when he was 17 years-old. He respectfully opposes the State of Alabama's petition for a writ of certiorari to review the judgment of the Alabama Supreme Court in this case.

OPINIONS BELOW

The Alabama Supreme Court granted Mr. Adams's petition for a writ of certiorari, reversing and remanding to the Alabama Court of Criminal Appeals in light of this Court's decision in *Roper v. Simmons*. This opinion is attached as Appendix A. *Ex parte Adams*, No. 1030633, 2005 WL 3506662 (Ala. 2005 Dec. 23, 2005). On April 28, 2006, the

Alabama Court of Criminal Appeals remanded this case to the circuit court for resentencing *State v. Adams*, CR-98-0496, 2006 WL 1216740 (Ala. Crim. App. April 28, 2006). The opinion is attached as Appendix B.

JURISDICTION

The State has invoked this Court's jurisdiction pursuant to 28 U.S.C. § 1257(a), while at the same time noting that "the Alabama Supreme Court's decision appears to contemplate further proceedings" in this matter. (Pet. 1.) Since filing a certiorari petition in this Court, the Court of Criminal Appeals has remanded this case to the circuit court for resentencing. *State v. Adams*, CR-98-0496, 2006 WL 1216740 (Ala. Crim. App. April 28, 2006). The state filed no motion to stay the proceedings in Alabama until after the Court of Criminal Appeals's remand was issued on April 28, 2006.

CONSTITUTIONAL PROVISIONS INVOLVED

The Eighth Amendment to the United States Constitution provides in pertinent part:

> Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

STATEMENT OF THE CASE

On March 1, 2005, this Court declared the death penalty unconstitutional for juvenile offenders under the age of 18 after reviewing evolving standards of decency evidenced by the growing number of American jurisdictions that shield juveniles from capital punishment.

Roper v. Simmons, 543 U.S. 551 (2005). Following *Roper*, most Alabama juveniles on death row were resentenced to life imprisonment without parole with no opposition from Alabama's Attorney General. *See, e.g.*, *Hyde v. State*, No. CR-04-1092, 2006 WL 510780 (Ala. Crim. App. March 3, 2006); *Hart v. State*, No. CR-05-0056, 2005 WL 3120108 (Ala. Crim. App. Nov. 23, 2005).

The case of Respondent Renaldo Adams was pending at the Alabama Supreme Court at the time *Roper* was announced in March 2005. Over nine months later in December of 2005, the Alabama Supreme Court issued an order granting relief to Mr. Adams on his claim that the death penalty should not be applied to juveniles and remanded his case so that lower courts could comply with *Roper*. *Ex parte Adams*, No. 1030633, 2005 WL 3506662 (Ala. Dec. 23, 2005). At no point during the nine month period following *Roper* did the Alabama Attorney General ever argue in the Alabama Supreme Court that Mr. Adams should not be afforded relief under *Roper v. Simmons*. The Attorney General filed no rehearing or petition for reconsideration in the Alabama Supreme Court following its ruling.

On January 1, 2006, an associate justice of the Alabama Supreme Court who had recused himself in this case due to his prior involvement in the prosecution of Mr. Adams wrote an op-ed piece in the Birmingham News. Associate Justice Tom Parker denounced the rest of the Alabama justices for capitulating to this Court's ruling in *Roper* and announced that he would not comply with decisions from this Court like *Roper* that Justice Parker

concluded were the product of "judicial tyranny."[1] Justice Parker is now campaigning to become Chief Justice of Alabama's Supreme Court.[2]

As hotly contested elections approach for seats on the Alabama Supreme Court and the Attorney General's office, the Attorney General has petitioned this Court for certiorari review of the juvenile death penalty without any new facts or legal developments, based on arguments and authority presented and rejected by this Court just last term.

REASONS FOR DENYING THE WRIT

I. THE DOCTRINE OF STARE DECISIS DICTATES THAT CERTIORARI REVIEW BE DENIED WHERE A PETITIONER PRESENTS NO NEW FACTS, LEGAL DEVELOPMENTS OR ARGUMENTS ON AN IDENTICAL ISSUE DECIDED BY THIS COURT LAST TERM.

As this Court has noted, "[t]he rule of law depends in large part on adherence to the doctrine of stare decisis," and, for this reason, any departure from adhering to precedent

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[1]Justice Parker wrote:

> I am surprised, and dismayed, that my colleagues on the Alabama Supreme Court not only gave in to this unconstitutional activism without a word of protest but also became accomplices to it by citing Roper as the basis for their decision to free Adams from death row.
>
> The proper response to such blatant judicial tyranny would have been for the Alabama Supreme Court to decline to follow Roper in the Adams case.

Tom Parker, Commentary, *Alabama Justices Surrender to Judicial Activism*, Birmingham News, Jan. 1, 2006.

[2]Mike Linn, *Parker Aims to be Chief Justice*, Montgomery Advertiser, April 6, 2006, at C3.

"demands special justification." *Welch v. Texas Dept. of Highways and Pub. Transp.*, 483 U.S. 468, 479 (1987) (citation omitted). This Court has approached the reconsideration of its prior decisions "with the utmost caution." *State Oil Co. v. Khan*, 522 U.S. 3, 20 (1997). The central role which this doctrine plays in this nation's legal system militates against a grant of a writ of certiorari in this case.

Though the doctrine of stare decisis is not an "inexorable command," *Payne v. Tennessee*, 501 U.S. 808, 828 (1991), for the Court to reverse itself after little more than a year would severely undermine its legitimacy in the eyes of the public. As this Court has recognized, the decision by this Court to reverse one of its previous rulings should be made with the utmost care. "Stare decisis is the preferred course because it promotes the evenhanded, predictable, and consistent development of legal principles, fosters reliance on judicial decisions, and contributes to the actual and perceived integrity of the judicial process." *Payne*, 501 U.S. at 827.

In this case, Alabama has admittedly offered no new facts, legal developments or arguments as a basis for this Court to reverse its decision. Under these circumstances, there is simply no basis for the Court to retreat from its widely recognized commitment to maintaining stability within the law and stare decisis.

II. RECENT FACTUAL AND LEGAL DEVELOPMENTS HAVE REINFORCED THIS COURT'S DECISION IN ROPER.

In the year since *Roper* was announced, four additional death penalty states have

enacted prohibitions against executing juveniles under state law: Texas, Georgia, Nevada and New Hampshire. Ga. Code Ann. § 17-9-3 (2005); Nev.Rev.Stat. § 176.025 (2005); N.H.Rev.Stat. Ann. § 630:1 (2005); Tex. Penal Code Ann. § 8.07(c) (2005). These state law developments have confirmed this Court's conclusion that evolving standards now reject the practice of condemning young teenagers to death for violent crimes.

Even in Alabama, the state Senate's Judiciary Committee passed legislation banning the execution of juveniles this year.[3] Although the legislative session ended before this legislation could be considered by the entire legislature, the Alabama legislature's activities mirrored other resistance to juvenile death sentences in Alabama. In the three years leading up to this Court's decision in *Roper*, no juvenile had been sentenced to death in Alabama. The dramatic decline in the rate of death sentences for juveniles between 2002 and 2005 marked the most significant decrease in juvenile death sentences in Alabama since Alabama's statute was rewritten in 1981. *See* Victor Streib, The Juvenile Death Penalty Today: Death Sentences and Executions for Juvenile Crimes, January 1, 1973 – February 25, 2005 15-23 (2005) (detailing every juvenile death sentence handed down by the State of Alabama).

Additionally, juvenile death sentences in Alabama have never reflected the kind of

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[3]On March 9, 2006, the Alabama Senate Judiciary committee voted eight to one in favor of proposed Senate Bill 504, which would ban the death penalty for anyone "who was a minor at the time of the commission of the capital offense." S. 504 2006 Leg., Reg. Sess. (Ala. 2006).

broad support suggested by the Attorney General in his petition for writ of certiorari. A staggering 35% of all juveniles sentenced to death in Alabama received jury verdicts of life imprisonment without parole that were overridden by elected trial judges.[4] The resistance to juvenile death sentences in Alabama suggested by these life verdicts is significant. Moreover, although unanimity is not required for a jury verdict of death in Alabama,[5] it is nonetheless notable that only six of the twenty-three death sentences levied against juvenile offenders since 1981 have followed a unanimous jury recommendation for death. Because unanimity is required in 31 out of the 39 jurisdictions that have authorized the death penalty,[6]

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[4]Since 1981, the State of Alabama has handed down twenty-three death sentences for juveniles. Of these, eight have been the result of judicial override. *See Ex parte Burgess*, 811 So.2d 617 (Ala. 2000); *Wimberly v. State*, CR-00-1772, 2005 WL 2046412 (Ala. Crim. App. Aug. 25, 2005); *Carrol v. State*, 852 So. 2d 801 (Ala. Crim. App. 1999); *Hyde v. State*, 778 So. 2d 199 (Ala. Crim. App. 1998); *Barnes v. State*, 727 So.2d 839 (Ala. Crim. App. 1997); *Barnes v. State*, 704 So.2d 487 (Ala. Crim. App. 1997); *Knotts v. State*, 686 So. 2d 484 (Ala. Crim. App. 1995); *Flowers v. State*, 586 So.2d 978 (Ala. Crim. App. 1991).

Alabama's unique capital statute permits trial judges to sentence an individual to death, notwithstanding a jury's recommendation of life without the possibility of parole. Ala. Code § 13A-5-47(e) (1975). Alabama is the only state in the country that continues this practice with no standards or restrictions on trial judge discretion. *See Harris v. Alabama*, 513 U.S. 504, 515 (1995) (Stevens, J., dissenting) ("In Alabama, unlike any other State in the Union, the trial judge has unbridled discretion to sentence the defendant to death-even though a jury has determined that death is an inappropriate penalty, and even though no basis exists for believing that any other reasonable, properly instructed jury would impose a death sentence.")

[5]Under Alabama law the jury need not be unanimous in order to return a recommendation of death: the jury's recommendation for death can be based on as few as ten jurors. Ala. Code § 13A-5-46(f) (1975).

[6]The states in question are: Arizona (Ariz. Rev. Stat. § 13-703.01(E), (H) (Supp. 2003)); Arkansas (Ark. Code Ann. § 5-4-603(a) (Michie 1997)); California (Cal. Penal Code

it is revealing that very few juveniles in Alabama would have received death sentences under the capital punishment law and jury verdict requirements of most jurisdictions.

The last several years in Alabama and across the nation have reinforced this Court's recent decision to ban the juvenile death penalty. The Alabama Attorney General's petition to revisit this issue lacks any factual, legal or policy justification. The Attorney General's petition for writ of certiorari in Mr. Adams case should therefore be denied.

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§190.4(a)-(b) (West 1999)); Colorado (Colo. Rev. Stat. § 18-1.3-1201(2)(a) (2004)); Connecticut (*State v. Reynolds*, 836 A.2d 224, 313 (Conn. 2003) (quoting *State v. Ross*, 646 A.2d 1318, 1352 (Conn. 1994))); Georgia (Ga. Code. Ann. § 17-10-31.1(c) (2004)); Idaho (Idaho Code§19-2515(3)(b) (Michie Supp. 2003)); Illinois (720 Ill. Comp. Stat. Ann. § 5/9-1(g) (West Supp. 2005)); Kansas (Kan. Stat. Ann. § 21-4624(e) (Supp. 2004)); Louisiana (La. Code Crim. Proc. Ann. art. 905.7 (West 1997); *State v. Sonnier*, 402 So. 2d 650, 657 (La. 1981)); Maryland (Md. Code Ann., Crim. Law, § 2-303(i) (Supp. 2004); *Baker v. State*, 790 A.2d 629, 636 (Md. 2002); *Metheny v. State*, 755 A.2d 1088, 1097 (Md. 2000)); Mississippi (Miss. Code Ann. § 99-19-103 (1999)); Nevada (*Geary v. State*, 952 P.2d 431, 433 (Nev. 1998)); New Hampshire (N.H. Rev. Stat. Ann. § 630:5(IV) (1996)); New Jersey (N.J. Stat. Ann. § 2C:11-3 (West. Supp. 2003)); New Mexico (N.M. Stat. Ann. § 31-20A-3 (Michie 2000)); New York (N.Y. Crim. Proc. Law § 400.27(7)(b), (10) (Supp. 2003)); North Carolina (N.C. Gen. Stat. § 15A-2000 (2001)); Oklahoma (Okla. Stat. tit. 21, §701.11 (2002)); Ohio (Ohio Rev. Code Ann. § 2929.03(B), (D) (Supp. 2005); (Ohio R. Crim. P. 31)); Oregon (Or. Rev. Stat. § 163.150(1)(b)-(e) (2003)); Pennsylvania (42 Pa. Cons. Stat. § 9711(c)(1)(iv) (Supp. 2005)); South Carolina (S.C. Code Ann. § 16-3-20(C) (Supp. 2001)); South Dakota (S.D. Codified Laws §§ 23A-26-1, 23A-27A-4) (1998)); Tennessee (Tenn. Code Ann. § 39-13-204(g) (2003)); Texas (Tex. Code Crim. Proc. Ann. art. 37.071(2) (Supp. 2004)); Utah (Utah Code Ann. § 76-3-207(5)(b) (2003)); Virginia (Va. Code Ann. § 19.2-264.4D (2004)); Washington (2005 Wash. Laws ch. 68, §4; Wash. Rev. Code §§ 10.95.060, 10.95.080 (2002)); and Wyoming (Wyo. Stat. Ann. § 6-2-102(d)(ii) (2005)). The federal government likewise requires a unanimous jury verdict in order to sentence a defendant to death. See 18 U.S.C. § 3593 (d) (2000).

CONCLUSION

This Court should deny the State's petition for a writ of certiorari to the Alabama Supreme Court in this case.

Respectfully Submitted,

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May 15, 2006

Appendix A

Only the Westlaw citation is currently available.
NOT YET RELEASED FOR PUBLICATION.

Supreme Court of Alabama.

Ex parte Renaldo Chante ADAMS.

(In re Renaldo Chante Adams

v.

State of Alabama).

1030633.

Dec. 23, 2005.

Background: Defendant was convicted in the Circuit Court, Montgomery County, No. CC-97-2403, William A. Shashy, J., of four counts of capital murder and first-degree robbery, and defendant was sentenced to death. Defendant appealed. The Court of Criminal Appeals, — So.2d —, affirmed the murder convictions and reversed the robbery conviction. Defendant petitioned for writ of certiorari.

Holding: The Supreme Court, Smith, J., held that if defendant had been 17 years old when he committed the capital murders, it would be unconstitutional to execute him.

Writ granted in part and denied in part; Court of Criminal Appeals reversed in part; remanded.

Sentencing and Punishment 350H ⇐1643

350H Sentencing and Punishment
350HVIII The Death Penalty
350HVIII(B) Persons Eligible
350Hk1643 k. Juveniles. Most Cited Cases

If defendant had been 17 years old when he committed the capital murders, it would be unconstitutional to execute him.

Bryan A. Stevenson, Cathleen I. Price, and Gerald W. King of Equal Justice Initiative of Alabama, Montgomery, for petitioner.

Troy King, atty. gen., and Tracy M. Daniel, asst. atty. gen., for respondent.

SMITH, Justice.[FN1]

*1 We hereby suspend the provisions of Rule 39(g) and (h), Ala. R.App. P., allowing the petitioner and the respondent to file briefs and request oral argument, and we summarily grant the writ solely to address the propriety of Renaldo Chante Adams's sentence. Adams was convicted and sentenced to death for murdering Melissa Mills during the course of a robbery, rape, and burglary. On appeal, the Court of Criminal Appeals affirmed Adams's conviction and his sentence of death. *Adams v. State*, [Ms. CR-98-0496, August 29, 2003] —So.2d — (Ala.Crim.App.2003).

In *Roper v. Simmons*, 543 U.S. 551, 125 S.Ct. 1183, 161 L.Ed.2d 1 (2005), decided after the Court of Criminal Appeals issued its decision in this case, the United States Supreme Court held that it was unconstitutional to execute an offender who was under the age of 18 when he or she committed the offense. The opinion of the Court of Criminal Appeals states that Adams was 17 years old at the time of the offense. — So.2d at —. Nothing filed in this Court disputes that fact. Thus, it would appear that the United States Supreme Court's decision in *Roper* applies to Adams's sentence; therefore, we reverse the judgment of the Court of Criminal Appeals as to

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Adams's sentence and remand the cause for a determination of the impact of *Roper* on Adams's sentence. As to all other issues raised in Adams's petition, certiorari review is denied.

WRIT GRANTED IN PART AND DENIED IN PART; REVERSED AND REMANDED.

NABERS, C.J., and SEE, LYONS, HARWOOD, WOODALL, STUART, and BOLIN, JJ., concur. PARKER, J., recuses himself.

FN1. This case was originally assigned to another Justice; it was later reassigned to Justice Smith.

Ala.,2005.
Ex parte Adams
— So.2d —, 2005 WL 3506662 (Ala.)

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Appendix B

--- So.2d ----
--- So.2d ----, 2006 WL 1216740 (Ala.Crim.App.)
(Cite as: — So.2d —)

Only the Westlaw citation is currently available.
NOT YET RELEASED FOR PUBLICATION.
Court of Criminal Appeals of Alabama.
Renaldo Chante ADAMS
v.
STATE of Alabama.
CR-98-0496.

April 28, 2006.

Background: Defendant was convicted in the Circuit Court, Montgomery County, No. CC-97-2403, William A. Shashy, J., of four counts of capital murder, and first-degree robbery, and defendant was sentenced to death. Defendant appealed. The Court of Criminal Appeals, 2003 WL 22026043, affirmed the murder convictions and reversed the robbery conviction. Defendant petitioned for writ of certiorari. The Supreme Court, 2005 WL 3506662, reversed the decision of the Court of Criminal Appeals in part, and remanded.

Holding: On remand, the Court of Criminal Appeals, McMillan, P.J., held that defendant could not be sentenced to death for murder committed when defendant was under age of 18.

Remanded with instructions.

Homicide 203 ⇐1572

203 Homicide
203XIV Sentence and Punishment
203k1570 Life Sentence
203k1572 k. Murder. Most Cited Cases

Sentencing and Punishment 350H ⇐1643

350H Sentencing and Punishment
350HVIII The Death Penalty
350HVIII(B) Persons Eligible
350Hk1643 k. Juveniles. Most Cited Cases
Defendant, who was 17 years of age at time he committed murder of which he was convicted, could not be sentenced to death, and thus only available sentence for defendant was life in penitentiary without possibility of parole.

Defendant, who was 17 years of age at time he committed murder of which he was convicted, could not be sentenced to death, and thus only available sentence for defendant was life in penitentiary without possibility of parole.

Appeal from Montgomery Circuit Court (CC-97-2403).
On Remand from the Alabama Supreme Court.
McMILLAN, Presiding Judge.
***1** The appellant, Renaldo Chante Adams, was convicted of four counts of capital murder and one count of first-degree robbery. He was sentenced to death on the capital-murder convictions and to life imprisonment on the robbery conviction. This Court affirmed Adams's capital-murder convictions and death sentence, but remanded the case for the trial court to set aside Adams's robbery conviction and sentence of life imprisonment as violative of double-jeopardy principles. *Adams v. State*, [Ms. CR-98-0496, August 29, 2003] --- So.2d ---- (Ala.Crim.App.2003). After the trial court complied with our directions, this Court affirmed its judgment. *Adams v. State*, [Ms. CR-98-0496,

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Dec. 2, 2003] — So.2d — (Ala.Crim.App.2003) (opinion on return to remand). Adams appealed to the Alabama Supreme Court, and that Court remanded the case to this Court, stating:

"In *Roper v. Simmons*, 543 U.S. 551, 125 S.Ct. 1183, 161 L.Ed.2d 1 (2005), decided after the Court of Criminal Appeals issued its decision in this case, the United States Supreme Court held that it was unconstitutional to execute an offender who was under the age of 18 when he or she committed the offense. The opinion of the Court of Criminal Appeals states that Adams was 17 years old at the time of the offense. — So.2d at —. Nothing filed in this Court disputes that fact. Thus, it would appear that the United States Supreme Court's decision in *Roper* applies to Adams's sentence; therefore, we reverse the judgment of the Court of Criminal Appeals as to Adams's sentence and remand the cause for a determination of the impact of *Roper* on Adams's sentence. As to all other issues raised in Adams's petition, certiorari review is denied."

Ex parte Adams, [Ms. 1030633, December 23, 2005] — So.2d —, — (Ala.2005).

Adams was born on July 1, 1980; the murder occurred on the evening of August 20, 1997. The record clearly indicates that Adams was 17 years of age at the time of the murder. Thus, because Adams was under the age of 18 when he committed the murder, his sentence of death is due to be set aside pursuant to *Roper v. Simmons*, 543 U.S. 551, 125 S.Ct. 1183, 161 L.Ed.2d 1 (2005). Therefore, this case must be remanded for the Montgomery Circuit Court to set aside Adams's death sentence and to sentence him to the only other sentence available-life in the penitentiary without the possibility of parole. See *Wimberly v. State*, [Ms. CR-00-1772, Aug. 26, 2005] — So.2d — (Ala.Crim.App.2005); and *Duke v. State*, 922 So.2d 179 (Ala.Crim.App.2005) (opinion on remand from the United States Supreme Court). Due return should be filed with this Court no later than 42 days from the date of this opinion.

REMANDED WITH INSTRUCTIONS.

COBB, BASCHAB, SHAW, and WISE, JJ., concur.

Ala.Cr.App.,2006.

Adams v. State

— So.2d —, 2006 WL 1216740 (Ala.Crim.App.)

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